

The following text appears as part of a deed restriction on the individual lots in the LP Subdivision. It provides a mechanism for the collection of funds necessary to implement the HCP.

ASSESSMENTS

A. Creation of the Lien and Personal Obligation for Assessments: By acceptance of a deed to a Lot (whether or not it shall be so expressed in such deed), each Grantee is deemed to covenant and agrees to pay to Grantor (i) annual operating assessments or charges; (ii) special assessments for capital improvements; (iii) special individual assessments; and (iv) any other cash calls of whatever nature voted by Grantor in accordance with its Operating Agreement, all such assessments to be established and collected as hereinafter provided:

1. The annual and special assessments, together with the cost of collection thereof, attorneys' fees, and interest as provided hereinafter, shall be a charge on each Lot and shall be a continuing lien upon such Lot against which such assessment is levied by Grantor as provided hereinafter.
2. Each such assessment, together with the cost of collection thereof, attorneys' fees, and interest as provided hereinafter, shall also be the personal obligation of each owner of a Lot, and, if there is more than one owner of a Lot (i.e., owners of fractional interests of a Lot), then such assessment, together with the cost of collection thereof, attorneys' fees, and interest as provided hereinafter, shall be the joint and several personal obligation of each of such owners.
3. In a voluntary conveyance of a Lot, the grantee or grantees of the Lot shall be jointly and severally liable with the grantor or grantors thereof for all unpaid assessments against such Lot up to the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.
4. Every Lot and every Lot owner (and if more than one Lot owner, then all owners of a Lot, jointly and severally) shall be charged with entire amount of each annual and special assessment attributable to each such Lot.

B. Purpose and Nature of Assessments: The assessments levied by Grantor shall be used exclusively to promote the health, safety and welfare of the residents of the Subdivision and for the improvement, replacement, repair and maintenance of the Common Facilities (referred to in Section 10 hereinafter). More particularly, without limiting the generality of the foregoing, such assessments shall be used for payment of the following:

1. Annual operating assessments: Costs of the maintenance, repair and other services provided by Grantor; taxes on Common Facilities; insurance premiums for insurance provided pursuant hereto; costs for the operation, management and administration of Grantor, including, but being not limited to, fees of property management, legal and accounting services, costs of mailing, postage, supplies

and materials for operating the Grantor; and the salaries, wages, payroll charges, and other costs incurred to perform these services; a general operating reserve and a capital improvements reserve; if implemented by Grantor; the cost of the operation of the Architectural Review Committee; the cost of maintaining the Habitat Conservation Plan, as the same may be amended from time to time; and, the cost of maintenance, repair and replacement of the Common Facilities, as the same may exist from time to time.

2. Special assessments for capital improvements. The expense to construct, reconstruct, and replace capital improvements which are a part of the Common Facilities, including personal property and fixtures to the extent reserve funds are insufficient therefore.

3. Special Individual Assessments. To reimburse the Grantor for the cost of performing obligations of a Lot owner pursuant to the provisions of these Restrictions, the Operating Agreement of Grantor (the "Operating Agreement"), or for such reason as may hereafter be determined by the Board of Managers of Grantor (the Board of Managers"), but especially without limiting the generality of the foregoing, for the reason of levying as an assessment (i) the cost of enforcement against a Lot owner, the occupant thereof, or the respective licensees and invitees thereof, of any violation of the terms of these Restrictions, the Operating Agreement, or such rules and regulations as may, from time to time, be adopted by the Board of Managers; or (ii) costs incurred by Grantor in the event the owner of a Lot or the occupant thereof fails to maintain such Lot in a manner which, in the discretion of the Board of Managers, constitutes a nuisance or threatens the welfare of other Lot owners or occupants; or (iii) any fines or penalties levied by the Board of Managers (in its discretion, after reasonable notice and a hearing), upon a Lot owner for any of the occurrences referred to in this paragraph or for any violations of these Restrictions, which fines and penalties the Board of Managers is specifically authorized hereby to so levy.

4. Levy and Amount of Assessments:

a. Annual operating assessment.

(1) Annual operating assessment. The annual operating expense shall be that amount of funds, estimated by the Board of Managers, to be necessary for all operating expenses of Grantor for the balance of the next succeeding fiscal year.

(2) Operating reserve. The Board of Managers may establish and maintain a general operating reserve fund in such amount as shall be determined by the Board of Managers so as to assure availability of funds for the normal operation of Grantor, and shall accordingly assess and collect assessments in such amount and in such fashion reasonably deemed necessary by such Board of Managers.

(3) Capital improvement reserve. The Board of Managers may establish and maintain a reserve fund in such amount as such Board may deem appropriate so as to assure the availability of funds for the repair and replacement of capital improvements which are a part of the Common Facilities. These funds, except as otherwise provided by the Board of Managers, shall be used solely for the purpose for which assessed.

(4) Special assessments for capital improvements. In addition to the annual operating assessment referred to hereinabove, the Board of Managers may levy, at any time, in its discretion, special assessments to construct, reconstruct, or to replace capital improvements on the Common Facilities to the extent that reserves therefore are insufficient, provided, however, that new capital improvements, which are constructed for purposes other than to replace existing improvements, shall not be constructed nor funds assessed therefore without the prior affirmative vote of seventy-five percent of the voting power of all members of Grantor.

(5) Special Individual Assessments. The Board of Managers may levy an assessment against an individual Lot, to reimburse Grantor for those costs incurred in connection with such Lot, in the event the Lot owner thereof fails to maintain such Lot as provided herein, or in the event that any action is instituted against a Lot owner, the occupant thereof, or the respective licensees and invitees thereof, as a result of any violation of the terms of these Restrictions, the Operating Agreement, or such rules and regulations as may, from time to time, be adopted by the Board of Managers.

5. Effect of non-payment of assessments--remedies of the Grantor.

a. If any installment of any assessment is not paid within thirty (30) days after the same has become due, the entire unpaid balance of such assessment shall then automatically be accelerated and shall immediately become due and payable in full, together with the cost of collection thereof, attorneys' fees, and interest on the entire unpaid balance of such assessment at the rate of ten percent (10%) per annum, or the highest interest rate permitted by law, if greater than ten percent (10%).

b. At any time after an assessment or an installment thereof levied pursuant hereto remains unpaid for thirty (30) days after the same has become due and payable, a Certificate of Lien for the entire unpaid balance of such assessment, together with the cost of collection thereof, attorneys' fees, and interest on the entire unpaid balance of such assessment at the rate set forth hereinabove may be filed with the Recorder of Erie County, Ohio, pursuant to authorization given by the Board of

Managers. Such Certificate shall contain a description of the Lot against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessment, and shall be signed by the Managing Member, or other officers designated for such purpose by the Board of Managers.

c. The lien provided for herein shall remain valid for a period of five (5) years from the date of the filing of the aforementioned Certificate of Lien, unless sooner released or satisfied in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien as hereinafter provided.

d. Except as to first mortgages as provided hereinafter, the lien referred to herein and the rights of Grantor as provided herein shall not in any way be affected, abridged or impaired by the conveyance of the Lot to which such lien applies, but such rights shall continue as against the parties to whom such Lot is conveyed as provided hereinabove.

e. Grantor, as authorized by the Board of Managers, may bring an action at law against the member or members obligated to pay the assessments referred to herein, or an action to foreclose the lien referred to hereinabove, or both. In any such foreclosure action, Grantor shall be entitled to become a purchaser at the foreclosure. In any such action, interest and costs of such action shall be added to the amount of any such assessment, to the extent permitted by the laws of the State of Ohio.

f. No member of Grantor may waive or otherwise escape liability for the assessments provided herein by non-use of the Common Facilities, or by abandonment of such member's Lot.

g. Any member who believes that an assessment chargeable to such member's Lot, for which a Certificate of Lien has been filed by Grantor, has been improperly charged against that Lot, may bring an action in the Court of Common Pleas of Erie County, Ohio, for the discharge of such lien. In any such action, if it is finally determined that all or a portion of such assessment has been improperly charged to such Lot, the Court shall make such order as is just, which may provide for a discharge of record of all or a portion of such lien.

6. Subordination of the Lien to the First Mortgages. The lien of the assessments provided for herein (but not a Certificate of Lien as provided hereinabove) shall be subject and subordinate to the lien of any duly executed and recorded first mortgage, and any holder of such first mortgage which comes into title of a Lot pursuant to the remedies provided in such mortgage, or by foreclosure of such mortgage, or by deed, or by deed in lieu of foreclosure, and any purchaser at a foreclosure sale shall take the property free of any claims for unpaid assessments

or charges against said Lot (except those referred to in a Certificate of Lien) which are attributable to the period prior to the time such holder or purchaser acquired title to such Lot.

7. Local Government Assessments. In the event any governmental body should, in connection with a sewer, water, street, street lighting, or sidewalk improvement, or similar improvement or maintenance program or other governmental action, levy an assessment against all or any part of the Common Facilities, those assessments shall be shared among all Lots, and if the same is paid by Grantor, the same shall forthwith upon such payment be assessed by Grantor among all Lots in the same proportions as annual operating assessments as otherwise provided hereinabove.

8. Certificate Regarding Assessment. Grantor shall, upon demand, and for a reasonable charge, at the discretion of the Board of Managers, furnish a certificate signed by an officer of Grantor setting forth whether the assessments as to a specified Lot have been paid and, if such assessments have not been paid, the amount so unpaid. This certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

9. Effective Date and Method of Payment of Annual and Special Assessments.

a. Effective date of assessment. Any assessment created pursuant hereto shall be effective, provided it is created by the Board of Managers in accordance with the Operating Agreement of Grantor, and if written notice of the amount thereof is sent by the Board of Managers to the member of Grantor subject thereto at least thirty (30) days prior to the due date thereof, or the due date of the first installment thereof, if to be paid in installments as provided hereinafter. The mailing of the same to that last designated address shall constitute notice to the member.

b. Method of payment.

(1) Each assessment created pursuant hereto shall be due in full on the effective date thereof, provided, however, that unless otherwise provided by the Board of Managers, such assessment shall be paid in twelve (12) equal monthly installments, with each installment being due on the first day of each calendar month.

(2) If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be paid into a reserve fund, as selected by the Board of Managers, and shall in no event be deemed to be profits, nor available, except on dissolution of Grantor, for distribution to members. However, if the Board of Managers should determine that the retention of any assessments collected in excess of ordinary and necessary expenses would subject any proceeds to taxation, the Board of Managers, in its discretion, may refund all or any portion of

such excess among the members owning those Lots at the time of such distribution in the same proportions as the same were made with respect to the Lots of those members. Alternatively, any such excess may be applied by the Board of Managers so as to reduce the assessments next falling due.